IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.3686 OF 2003
IN
SUIT NO.3175 OF 1999

Sylvia Gomms nee Mathews ..Plaintiff
Vs.
Julies D. Mathews & Ors. ..Defendants

Mr.Ahmed Sayed i/b.M/s.C.R. Naidu & Company for the Plaintiff.

Mr.S.G.Bhandary i/b.M/s.Bhandary & Bhandary for Defendant Nos.1 to 3.

CORAM : S.J. VAZIFDAR, J.
DATED : 25TH OCTOBER, 2005.

P.C. :

The interests of the Plaintiff are adequately protected by the interim orders passed in Notice of Motion No.2001 of 1999. There are no change in circumstances warranting the variation of the orders therein.

2. The only ground stated before me was that the Defendants have now propounded a Will. In clause 3 of the Will the deceased has mentioned that he is the sole owner of the immoveable property mentioned therein. It was contended therefore that the Defendants who are also the executors of the Will have contended that the deceased was not the sole owner. It was therefore contended that there was a conflict

of interest between the Defendants as beneficiaries and as executors.

3. The argument is without any substance. Assuming that the Will is not established, the orders in Notice of Motion No.2001 of 1999 admittedly protect the interest of the Plaintiff. Assuming that the Will is established, in any event, under clause 3 the said property has been bequeathed to Defendant No.1 and not to the Plaintiff. The Plaintiff's interests therefore cannot be adversely affected.

4. As far as the shares are concerned, the learned counsel appearing on behalf of the Defendants reiterates that these shares as well as the immoveable property shall not be sold without leave of the Court. The

5. learned counsel on behalf of the Defendants states that the details of the properties and assets of the estate of the deceased shall be furnished within eight weeks from today on affidavit. A copy whereof shall also be furnished to the Advocate for the Plaintiff.

6. Further, the accounts referred to in the order dated 30.6.1999 shall be furnished within twelve weeks

from today.

Notice of Motion stands disposed of accordingly.